

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

MICHAEL BRADLEY IRELAND,

PLAINTIFF

v.

CIVIL ACTION NO. 3:12-cv-445-DPJ-FKB

CAROLYN W. COLVIN, ACTING
COMMISSIONER OF SOCIAL SECURITY

DEFENDANT

ORDER

This cause is before the Court on the Report and Recommendation [14] of the United States Magistrate Judge, after referral of hearing by this Court. Magistrate Judge Ball considered the parties' submissions and concluded that Defendant's Motion to Affirm the Decision of the Commissioner [12] should be granted. Plaintiff filed a timely Objection [15] to the Report and Recommendation, and the Commissioner filed a Response [16]. After reviewing the findings in the Report and Recommendation, together with Plaintiff's Objection and the Commissioner's Response, and being otherwise duly advised in the premises, the Court concludes that the Report and Recommendation should be adopted as the opinion of this Court.

In his Report and Recommendation, Judge Ball concluded that the Administrative Law Judge (ALJ) determined that Plaintiff's back condition is non-severe, that substantial evidence supported that determination, and that the ALJ properly considered all applicable limitations in determining Plaintiff's mental Residual Functional Capacity (RFC). Plaintiff's Objections raise two related issues: (1) the ALJ did not apply the proper legal standard when evaluating Plaintiff's mental health impairment and (2) the RFC fails to adequately address Plaintiff's ability to perform the mental functions of adapting and concentrating in the routine work setting.

Objection [15] at 1, 5.¹

Though Plaintiff states that the ALJ did not apply the proper legal standard, Plaintiff's argument focuses entirely on the ALJ's failure to address certain areas of functioning with respect to the RFC and does not actually address whether the proper legal standard was applied. It is clear however that the ALJ applied the proper standard or "technique" when evaluating Plaintiff's mental impairment and Residual Functional Capacity. *See* Report and Recommendation [14] at 9–10; *Perez v. Barnhart*, 415 F.3d 457, 461–62 (5th Cir. 2005). Any Objection on this issue is overruled.

Plaintiff asserts that the ultimate Residual Functional Capacity findings are not based on sufficiently detailed findings and failed to address some of the mental functions detailed in Social Security Ruling 85-15, specifically adapting and concentrating. Objection [15] at 3. But, as Judge Ball noted, the ALJ "specifically pointed out the detailed nature of the mental RFC assessment." Report and Recommendation [14] at 10. The ALJ further found that Plaintiff "was limited to performing simple, repetitive tasks and could have only occasional contact with others." Report and Recommendation [14] at 11. These findings adequately address Plaintiff's ability to adapt and concentrate in the work setting, and the ALJ's conclusion regarding Plaintiff's mental impairment is supported by substantial evidence. Plaintiff's objections to the Residual Functional Capacity findings are overruled.

For the foregoing reasons, the Court finds that the Report and Recommendation of the United States Magistrate Judge should be adopted as the opinion of this Court.

¹ In its Objections, Plaintiff does not dispute Judge Ball's conclusion that substantial evidence supports the finding that Plaintiff's back condition is non-severe.

IT IS, THEREFORE, ORDERED that Plaintiff's objection to the Report and Recommendation is hereby overruled.

IT IS FURTHER ORDERED that the Report and Recommendation of United States Magistrate Judge F. Keith Ball be, and the same is hereby, adopted as the finding of this Court; Defendant's motion [12] is granted; the decision of the Commissioner is affirmed; and this action is dismissed with prejudice.

A separate judgment will be entered in accordance with the Order as required by Federal Rule of Civil Procedure 58.

SO ORDERED AND ADJUDGED this the 9th day of September, 2013.

s/ Daniel P. Jordan III

UNITED STATES DISTRICT JUDGE